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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,057	06/06/2001	Takehiro Nishiyama	209396US-2X	5638
22850	7590	06/30/2004		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER RUHL, DENNIS WILLIAM	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,057

Applicant(s)

NISHIYAMA, TAKEHIRO

Examiner

Dennis Ruhl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040223; 20011220.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. With respect to the IDS references that are entirely in Japanese, they have not been considered because no translation and/or a statement of relevancy has been provided to the examiner. See 37 CFR 1.97 and 1.98 for IDS rules.

2. The drawings are objected to because figure 1 shows an arrow with no associated number or description. What is the arrow at the bottom of figure 1 supposed to represent? Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4,7, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 4, there are a number of limitations that the examiner is not clear about. Applicant has claimed that the rental location information has an upper location information and a lower location information and further states that they have a wider area as an upper class and a narrower area as a lower class respectively. This is considered indefinite because it is not known what this language defines. What is a wider area as an upper class? An area that is wider than what? What is meant by an upper class or lower class? The examiner has no idea what is being claimed here. Applicant should take notice that the absence of a prior art rejection for this claim should not be taken as an indication of allowability, but is because of the indefiniteness of the claim.

For claim 7, what is meant by "an upper specification that is not as easy to change as an upper class"? Also confusing is the lower specification that is easy to change as a lower class. The examiner has no idea what this language is attempting to define and it is considered indefinite. Applicant should take notice that the absence of a prior art rejection for this claim should not be taken as an indication of allowability, but is because of the indefiniteness of the claim.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (6134534).

Walker discloses a system that allows a customer to purchase or secure a reservation online. Applicant should take notice that with respect to the limitations stating that the system is for renting a construction machine and searches associated construction machine search data, this is considered to be non-functional descriptive material and is given minimal patentable weight. *In re Gulack*, 217 USPQ 401 (CAFC 1983). The type of data being stored does not render the system patentable.

Walker discloses a system that has a network server 200 that holds service provider type of information as claimed. There is also disclosed a network terminal 110 that is capable of taking inputted data. The server searches with the inputted search criteria for information on services, etc., that satisfy the search criteria. Walker discloses a system as claimed that is fully capable of operating as claimed.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3,5,6,8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newswire article (2/3/00) in view of www2.hertz.com, Hertz Interactive Reservations Process, The Hertz Corporation, 8pp., 1999.

For claims 1-3,6,8,9,10,13, the newswire article discloses a company that handles online rentals of construction machinery. A database (network server) storing the type of equipment for rent is maintained and also contains availability information. That availability information inherently includes the current or projected use of the equipment. Newswire also discloses that online rental requests are processed. The newswire article does not disclose having the customer input search criteria, having the server search for information on machines that satisfy the search criteria, and providing the customer with the results. Hertz discloses an interactive process for the online reservation and rental of vehicles. The interactive process allows a customer to input a desired location for the rental to take place, input the desired type of vehicle to rent, specify date of rental period, and then a search is performed and results are displayed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the online rental procedure disclosed in the Newswire article with a search function as disclosed by Hertz, so that a customer can do an equipment search based on location, type of vehicle, and rental period.

For claim 5, not disclosed is that the machine to be rented is a tracklaying construction machine. The newswire article discloses that the type of machinery

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to be rented includes construction equipment, heavy machinery, etc.. It would have been obvious to one of ordinary skill in the art at the time the invention was made to rent a tracklaying machine as claimed. The newswire article discloses the main concept of renting construction equipment so reciting that the machine is of a specific type will not serve to patentably distinguish over the prior art.

For claim 11, the system of the newswire article will provide the customer with information on dates a machine is available for rent. Not disclosed is that the information is presented in the form of a calendar. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the dates a machine is available for rent in the form of a calendar. A calendar is the customary manner in which people schedule things and is an easy to understand type of format for the customer.

For claim 12, in the event that for some reason a search could not be performed it would have been obvious to one of ordinary skill in the art at the time the invention was made to display some sort of default page that contains information. With respect to reciting that the server provides information relating to a machine owned by a holder of said server network, applicant has not disclosed that this step solves a particular problem or produces an unexpected result, so the examiner considers that the content of the page displayed if the search cannot be executed is considered obvious to one of ordinary skill in the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER